

MASSACHUSETTS DEPARTMENT OF CORRECTION  
MCI-CEDAR JUNCTION AT WALPOLE  
DISCIPLINARY REPORT

4/2  
Exhibit "A"

INMATE: Joseph Schmitt ID#: W-57126 HOUSING UNIT: DDU #113

DATE: March 15, 2002 D-REPORT NO.: 02-0563

OFFENSE(S) & CODE NO.: #2; #8; #33

MINOR MAJOR REFERRED TO DISTRICT ATTORNEY

MAJOR REFER TO SPECIAL DDU HEARING OFFICER

DESCRIPTION OF OFFENSE(S):

On March 15, 2002 I, Officer Jeffrey Smith determined that inmate Joseph Schmitt violated institutional rules and disrupted the orderly running of the institution.

It has been determined that inmate Schmitt has authored a letter to Joseph Chavez, an inmate incarcerated in New Mexico. This letter contained an explicit sexual story pertaining to sexual acts with a child and is consistent with previously authored stories by inmate Schmitt. His actions of authoring this story violates institution rules and disrupts the orderly running, as he has been previously disciplined on material of this nature and is aware of the consequences. The letter has been confiscated as evidence and all proper authorities were notified.

HAS INMATE BEEN PLACED ON AWAITING ACTION STATUS? YES \_\_\_\_\_ NO ☒

REPORTING STAFF PERSON'S SIGNATURE Jeffrey Smith  
Jeffrey Smith, C.O. IPS

DAYS OFF    S    /    M   

SHIFT   7   /   3  

(PLEASE PRINT NAME)

SHIFT COMMANDER'S SIGNATURE Capt. [Signature] Date: 3/19/02

DISCIPLINARY OFFICER'S SIGNATURE [Signature] Date: 3/20/02

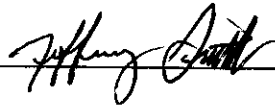
APPEAL RESULTS \_\_\_\_\_

REVIEWING AUTHORITY \_\_\_\_\_ DATE: 4/3/02

OFFENSES:

2. VIOLATING ANY DEPARTMENTAL RULE OR ANY OTHER RULE, REGULATION, OR CONDITION OF AN INSTITUTION OR COMMUNITY BASED PROGRAM.
8. CONDUCT WHICH DISRUPTS OR INTERFERES WITH THE SECURITY OR ORDERLY RUNNING OF THE INSTITUTION.
33. ATTEMPTING TO COMMIT ANY OF THE ABOVE OFFENSES, MAKING PLANS TO COMMIT ANY OF THE ABOVE OFFENSES OR AIDING ANOTHER PERSON TO COMMIT ANY OF THE ABOVE OFFENSES SHALL BE CONSIDERED THE SAME AS THE COMMISSION OF THE OFFENSE ITSELF.

REPORTING OFFICER'S  
SIGNATURE: \_\_\_\_\_



TITLE: CO1

DEPARTMENT OF CORRECTION  
REQUEST FOR EVIDENCE FORM

TO: **JOSEPH SCHMITT**#: **W-57126**RE: **02-0563**Date: **03/15/2002**

I understand that I will be served at a reasonable time prior to my disciplinary hearing with any documents which may be used against me. In addition to any such documents, I wish to request access to the following document(s) prior to my hearing which I believe will show me not guilty of the alleged infraction(s) contained in the D-Report. I understand that, in the event the Disciplinary Officer at the institution where the alleged disciplinary infraction(s) occurred denies my request for these document(s), it will be up to the Hearing Officer to decide if I am entitled to the document(s) for the reason(s) I have stated. The Hearing Officer will determine if the requested document(s) are relevant and not merely repetitive and whether they are central to the preparation of my defense. The Hearing Officer may deny my request for documents if he/she determines that producing them would be hazardous in the particular situation. If the Hearing Officer decides that the document(s) need not be provided, his/her reason(s) will be included in the final report.

I am requesting the following specific document(s): Copy of the letter and envelope / And all written reports / And the names and titles of every person involved with this illegal D-report / And A copy of this form.

Each document is central to my defense for the following reasons: I'm entitled to this evidence by the Supreme Court's decision in Wolff v. McDonnell 418 U.S. 539, 555 (1974). And because I fully intend to take legal action against any and all parties who partake in this illegal suppression of my 1st Amendment Civil Right. This story is about me. This harassment will stop I guarantee you that it will. Evidence in legal action against you. MCI policy states the DOC shall not censor what I write. You're violating civil rights. And  
 Please be advised that failure to return this form to the Disciplinary Officer within 24 hours of receiving it will be considered as a waiver of request for any evidence.

**DEPARTMENT OF CORRECTION**

**EVIDENCE PRODUCED TO INMATE FORM**

**TO:** Joseph Schmitt W-57126  
Inmate's Name  
**FROM:** Sergeant Ernest J. Therien  
Disciplinary Officer  
**RE:** Disciplinary Report #: 02-0563

**EVIDENCE PRODUCED TO INMATE (ATTACHED)**

- 1) 9 page letter (with envelope) authored by Inmate Schmitt.

**DENIAL OF REQUESTED EVIDENCE AND REASON FOR DENIAL**

- 1) *all written reports...*

REASON FOR DENIAL: Nonexistent.

- 2) *the names of every person involved with this illegal report...*

REASON FOR DENIAL: Not a document request.

- 3)

REASON FOR DENIAL: N/A

Served by: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_

Inmate Signature: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_

\*\*\*\*When an inmate has been given copies of the above enumerated documents, but refuses to sign this acknowledgment, the staff person who delivered the documents shall complete the following:

I personally delivered copies of this EVIDENCE PRODUCED TO INMATE FORM with the identified documents to J. Schmitt and he refused to sign acknowledging receipt.  
Inmate's Name

Staff Person's Signature [Signature] Date: 3-22-02

Print Name: E. Therien Time: -

b2

DDU

DEPARTMENT OF CORRECTION  
NOTICE OF DISCIPLINARY HEARINGTO: **JOSEPH SCHMITT**I.D. #: **W-57126**Re: Disciplinary Report #: **02-0563**Date: **03/15/2002**

You have been charged with a disciplinary offense(s) which has been referred to the Hearing Officer for a hearing. A description of the offense(s) is contained in the attached Disciplinary Report. Your disciplinary hearing has been scheduled for:

**04/02/2002**

(Date of Hearing)

If you wish to be represented, request the presence of the reporting staff person, request other witnesses, and/or request a taped hearing, please fill out the attached Request for Representation/Witness Form. If you wish to request evidence, please fill out the attached Request for Evidence Form.

Notice Served By: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_

Inmate's Signature: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_

\*\*\*When an inmate has been given copies of the above enumerated documents, but refuses to sign this acknowledgement, the staff person who delivered the documents shall complete the following:

I personally delivered copies of this Notice, Disciplinary Report, Request for Representation/Witness Form, and Request for Evidence Form to:

**JOSEPH SCHMITT**

(Inmate's Name)

and he refused to sign.

Staff Person's Signature: Paul Gordon Date: 3/20/02Print Name: Paul Gordon Time: 8pm

\*\*The actual scheduling of the hearing may be delayed if circumstances require; however, you will be notified of the actual date of the re-scheduled hearing at least twenty-four (24) hours in advance of that date.



3-15-02  
JD

Joseph T. Chavez  
43897  
6900 W. Millen Dr.  
Hobbs, N.M. 88244


Joseph R. Schmitt W57126  
PO Box 100  
South Wingate, N.M. 88071-0100



Exhibit A

March 2, 2002

RAIN DANCE



COPYREC'D SUPV'S OFFICE  
HPT 02/10/02

2-24-02

Sgt Ernest Therien

MAR 25 10 57 AM '02

RE: D-report 02-0563 (and future reports)

I request that officer William Farca be barred from handling this disciplinary report (and any future reports) due to the fact that he is a knowing defendant in several lawsuits and for said factual reason he can not be impartial

*Joseph P. Schmitt*  
Joseph P. Schmitt

W57126

DDU-B2-113

CC: MCHS File

ACLU File

JPS File

Peter Allen



## Notice of Intent

FOIA OFFICE  
MAR 25 10 57 AM '02

TO: Peter Allen

FR: Joseph P. Schmitt, W57126, DDU-B2-113

DA: March 21, 2002

RE: Disciplinary Report number 02-0563

Joseph P. Schmitt

Attention Please:

I am directly informing you that your involvement in the above disciplinary matter has caused me to take immediate legal action, for which you are a named defendant.

This noted disciplinary report violates my first and Eighth Constitutional Amendment Rights

This noted disciplinary report alleges that I wrote a sexual story about a child. In fact, this sexual story is about myself and my youthful sexual experience. There is no CMR, State or Federal Law which prohibits such writings.

The continued, vigilante, prejudice, discriminatory, illegal, oppressive prosecution against me is not acceptable and if you persist with this particular disciplinary report I will sue you. You are to return my letter, envelope and story or face the legal consequences. This report is corrupt and to uphold it makes you the same.

SS4

MASSACHUSETTS DEPARTMENT OF CORRECTION

MCI-CEDAR JUNCTION @ WALPOLE

RESULTS OF APPEAL

TO: Joseph Schmitt

RE: D-REPORT NO. 02-0563

DATE: 4/12/02

A. BY THE DISCIPLINARY BOARD

After reviewing your case involving the above-cited Disciplinary Report, the Hearing Officer finds as follows:

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-----  
-----  
-----

Hearing Officer -----

Date -----

\*\*\*\*\*

B. BY THE SUPERINTENDENT

After reviewing your case involving the above-cited Disciplinary Report, I find as follows:

Appeal denied - No Merit

-----  
-----

[Signature] -----  
Superintendent Date 4/16/02

A copy of this decision has been served on the inmate -----

Staff Signature -----

Date -----

## MCI CEDAR JUNCTION AT WALPOLE

## MASSACHUSETTS DEPARTMENT OF CORRECTION

## DISCIPLINARY HEARING SUMMARY

INMATE: Joseph Schmitt #: W-57126REPORT #: 02-0563 DATE OF REPORT: 3/15/02DATE OF HEARING: 4/2/02 HEARING OFFICER: William Faria

1. The inmate was given at least 24 hours notice of the hearing (if no, attach 24 hour waiver) YES ☒ NO ☐
2. The inmate is present before the hearing officer (if not, attach refusal to appear form) YES ☒ NO ☐
3. The inmate has been advised of his right to remain silent, since the offense charged has, or may be referred to the District Attorney. The inmate has been further advised that his silence may be used to draw an adverse inference against him, but his silence alone may not be used to support a guilty finding. YES ☐ NO ☒
4. The inmate requested representation YES ☐ NO ☒  
The inmate is represented by an attorney/law student YES ☐ NO ☒

Name of legal representative: N/A

5. The inmate requested the presence of the reporting staff YES ☐ NO ☒  
The reporting staff person is present YES ☐ NO ☒

If the inmate's request was denied, indicate the reason: N/A

6. Inmate challenges impartiality of the Hearing Officer.  
YES ☒ NO ☐

If yes, state reasons why: States hearing officer is known defendant in lawsuits.

7. The hearing was tape recorded YES ☐ NO ☒
8. Was the inmate offered the use of the AT & T language line? Yes ☒ No ☐

\*\*\*\*\*

## Requests and Motions

1. Impartiality challenge: Denied Sgt. Therien rules that inmate's reasoning lacks merit. Furthermore, DBO Faria was not a witness to the alleged incident.
2. Written reports: Denied Nonexistent
3. Names/titles of people involved with report: Not a document request. Reporting officer's name on the written report. Additionally, inmate fails to cite why those names are central to his defense.

PAGE 2

INMATE: Joseph Schmitt D-REPORT: 02-05838. Witness: If none requested, check here ☒

A. REQUESTED BY INMATE: (If any witness request is denied, a written explanation of the reasons must be included as part of the record)

(1) n/a

(2) /

(3) /

B. REQUESTED BY HEARING OFFICER:

(1) n/a

(2) /

(3) /

\*\*\*\*\*

9. Presentation of evidence:

A. Inmate Statement

PLEA: No Plea Entered

Statement in defense (summary):

Inmate initially attended the hearing. After being informed that there was no witness form among his requests he voluntarily removed himself from the hearing. Consequently, the hearing was held in absentia.

B. Reporting Staff Person's Statement:

n/a

INMATE: Joseph Schmitt D-REPORT: 02-0563

C: Other Witness Statements: (If witness has been denied, indicate  
reason(s) for denial in this space)

Witness #2 Name: N/A

Statement: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Witness #3 Name: N/A

Statement: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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#### Documentary Evidence

In addition to the Disciplinary Report, the Hearing Officer accepted into evidence, and considered the following documents, physical evidence, photographs/video tapes:

Exhibit A - 9 page letter with envelope  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PAGE 4

INMATE: Joseph SchmittD-REPORT: 02-0583FINDINGS: Guilty (2)Dismiss (8/33) - Not established

Statement of Evidence Relied upon to Support Findings: (continue on Pg 4a if necessary)

A guilty finding has been established based primarily on the reporting officer's detailed report and exhibit A. Inmate Schmitt's refusal to enter a plea or participate with this hearing has drawn an adverse inference against him. Consequently, the reporting officer's report and physical evidence has been accepted as an accurate account of events. Thus, it has been determined that inmate Schmitt authored a letter containing an explicit sexual story pertaining to sexual acts with children. Exhibit A reflects a sexually explicit story involving sexual acts with children. Consequently, based on this information, it has been determined that inmate Schmitt authored this sexually explicit material and attempted to send it through the mail (2).

## SANCTIONS AND RECOMMENDATIONS:

Charge (2) - 12 weeks loss of TV, Radio, Phone

## Reason for Sanction:

The imposed sanction serves to advise inmate Schmitt that the sending of such material is not authorized. Such material clearly clearly violates departmental rules. Furthermore, such behavior is detrimental to the rehabilitation of inmate Schmitt and to the public safety. Hopefully, inmate Schmitt will reevaluate his personal goals and intentions while incarcerated at MCICJ.

The inmate has been advised of his right to appeal this decision within 5 working days of his receipt; to the Superintendent: ✓

Hearing Officer: W. F. S. Date: 4/4/02

The inmate has been advised of the Hearing officer's decision and a copy of this document has been delivered to the inmate: ✓